



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

Memorandum

To: Ken Wieder, SPRE, TC 2600 (Scott Ledford, Petitions Attorney)

CC:

From: Scott Ledford

Date: 05/21/01

Re: Review of Reissue Application Serial No. 09/665,183 (which is a reissue of Application No. 08/647,421, which was issued as U.S. Patent No. 5,808,982).

Ken:

The following cited points correspond to the items listed on the Patent Examiner Reissue Application Checklist and are provided as an aid to the reissue examination process.

1. Has the original patent file wrapper been obtained and reviewed?
The original patent file wrapper is located in files repository (Franconia).
2. Is the (original) patent still in force, I.E., has not expired due to the conclusion of its term or due to the non-payment of the maintenance fees?
Yes. It issued on September 15, 1998. Therefore, the first maintenance fee is not yet payable.
3. Has notice of the filing of the reissue application been published in the Official Gazette (O.G.)?
Yes.
4. Is the current date more than two months after the O.G. publication date?

Yes. The publication date was November 7, 2000.

5. Has the file been reviewed for the presence of any protests under 37 C.F.R. §1.291(a)?
A cursory review of the file reveals no sign of any 37 C.F.R. §1.291(a) protests.
6. Is the reissue application a division or a continuation of another pending reissue application?
No.
7. Is the patent or the reissue application involved in litigation?
The record does not disclose any ongoing or pending litigation. However, please check with the Scientific and Technical Information Center (STIC) for a more definitive answer. An e-mail request can be used to initiate a litigation search.
8. If the reissue application has been assigned, does it include the written consent to the filing by all of the assignees (37 C.F.R. §1.172(a))? See M.P.E.P. §1410.01.
PALM does not reveal any recorded assignments for this reissue.
9. Have all documents (in applications filed on or after September 24, 1992) signed by, or on behalf of, the assignee(s) been checked and found to comply with the provisions of 37 C.F.R. §3.73(b)?
As there have been no assignments, there are no papers relating to 37 C.F.R. §3.73(b).
10. Were any changes made to the patent by a Certificate of Correction dated prior to the filing of the reissue?
There are no signs of that.
11. Has the application been reviewed for the presence of any errors, including any not specifically identified, which are not correctable by reissue?
Reissue doesn't cure all patent ills. See "Reissue Guide" for listing of some errors which cannot be corrected by reissue.
12. Are any claims broader in scope (in ANY respect) than the original patent claims?
If YES, note 35 U.S.C. §251, 3rd and 4th paragraphs. If NO, proceed to item 14.

There is assignment

13. Does the broadening (from Item 12) attempt to "recapture" any claimed subject matter which was deliberately added, or argued, to overcome a rejection in the original application?
See "Reissue guide" for explanation of "recapture doctrine." Subject matter deliberately surrendered may not be recaptured (reclaimed) in a reissue application.

14. Has: (1) the original patent been surrendered OR (2) an affidavit/declaration averring that the original patent is lost or misplaced been filed?

Neither requirement has been met, (nor has Applicant offered to surrender it.)

not true

15. Does the reissue application seek to provoke an interference with another patent?
If NO, then proceed to item 17. If YES, then see "Reissue guide".

16. Do the issues of interference estoppel and the "lost count" doctrine apply?
Applies to losing party of an interference. See "Reissue Guide."

17. Is there a request to transfer the drawings from the original patented file to the reissue application?

No. However, it is noted that there is a request for approval of drawing changes.